

## **EXHIBIT 4B**

Witness: Charles Seward

17 (Pages 62 to 65)

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<p>1 A That's correct. They should be up and 2 running.</p> <p>3 Q Have you ever been told that you don't 4 necessarily need to log into every tool until -- you 5 may not need the tool that day?</p> <p>6 A Correct. I -- let me back up. I would use 7 -- I would log onto everything that I would normally 8 use first. You're correct.</p> <p>9 MR. RAY: The tape is about out. Let's take 10 a break, and then we'll let the tape get changed.</p> <p>11 THE VIDEOGRAPHER: Off video.</p> <p>12 (Thereupon, a recess was taken.)</p> <p>13 THE VIDEOGRAPHER: On video.</p> <p>14 BY MR. RAY:</p> <p>15 Q Mr. Seward, before the break we were 16 talking about the tools that you currently use.</p> <p>17 A Yes.</p> <p>18 Q And you went through, I believe, 16 or 17, 19 and I think you said you are not positive that's all 20 of them. There may be a couple more. I'm not 21 trying --</p> <p>22 A Yes.</p> <p>23 Q -- to hold you to memorizing every tool. 24 You also said, I think, that you -- in the -- before 25 you start the day, you log into the tools you normally</p>	<p>1 A Let's see. The first one? Yes. 2 Q For example, does it bring up a Lotus Notes 3 icon?</p> <p>4 A Yes. It shows the icon for Lotus.</p> <p>5 Q And let's talk first about the -- the tools 6 you normally use. The ones that you would log into 7 regularly at the start of your shift.</p> <p>8 A Yes.</p> <p>9 Q I assume that would include Lotus Notes?</p> <p>10 A Correct.</p> <p>11 Q Which other ones? And if you would like, I 12 could read through the ones you named.</p> <p>13 A Okay. I would -- I would -- I would 14 definitely need Lotus Notes, SBClient, Call Center. 15 Let's see, IEE, that's the one I forgot. Well, 16 actually IEE is the Call Center. I'm sorry. So it's 17 Call Center, SBClient, Lotus Notes, Contracts On Line. 18 Software -- let me back up. The terminology is 19 BrioQuery. Let me see. Fastpass, PMINQ, CMCICS. 20 Let's see. SBClient. Could you read it back, the 21 ones I gave you, or the ones I definitely need?</p> <p>22 Q The ones you definitely --</p> <p>23 A The ones I just read?</p> <p>24 Q The ones you normally -- Lotus Notes, 25 SBClient, Call Center, Contracts On Line, BrioQuery,</p>
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<p>1 use. I think that was the phrase you used.</p> <p>2 A Yes. Yes. There's -- there's a -- there 3 are tools that -- that I know I'm going to use. I 4 make sure those guys are up before the other ones are 5 -- I might have, say, a half dozen that I do not -- 6 they might time out, if you will, if you do not use 7 them. They'll log themselves off.</p> <p>8 So they're there. They're up. They're 9 up, but they're not logged on with a password, but I 10 can log onto them if something happens with a customer 11 that I need additional information that that tool 12 might have for me, but those are the guys -- those 13 tools are -- are the tools that I don't use as often.</p> <p>14 Q Okay. Let's talk about the tool -- well, 15 let me back up. When you come -- when you first are 16 starting to boot up the computer, I assume you have to 17 turn it on each day?</p> <p>18 A Yes.</p> <p>19 Q And then what is the first thing you have 20 to actually type a password or take some action to log 21 into?</p> <p>22 A Yes. I have to log onto my workstation.</p> <p>23 Q And once you log into your workstation, 24 does that then bring up various icons that you can 25 then log into?</p>	<p>1 Fastpass, PMINQ, CMCICS.</p> <p>2 A I forgot something that I need. That'll 3 get me rolling.</p> <p>4 Q Do you -- so on a regular day you would -- 5 or on a normal day you would -- when you are getting 6 ready to work, you would log into these tools you just 7 described?</p> <p>8 A Right. I need those guys to get going.</p> <p>9 Q Does every one of these tools you just 10 listed require a password?</p> <p>11 A Yes.</p> <p>12 Q Do you do them in the same -- or do you log 13 into those tools in the same order each day?</p> <p>14 A No.</p> <p>15 Q So you come in -- I'm just going to walk 16 through each tool. I want to try to get an 17 understanding of how long this takes.</p> <p>18 A Yes.</p> <p>19 Q Okay? You turn on your computer, right?</p> <p>20 A Yes.</p> <p>21 Q And then how long does it take the computer 22 to boot up to the point where you can log into the 23 workstation? And I'm sure there's a range here. I'm 24 not trying to --</p> <p>25 A A half a minute or so. What happens at</p>

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<p>1 that time, there comes a -- a screen comes up where I  2 have to put in the identification for that  3 workstation, and then -- then it -- the system starts  4 generating, starts coming up at that point, and that  5 may be -- I don't know how much time. Then it's going  6 to come up with my workstation log-in. That's where I  7 put my security to log into the workstation. At that  8 point is when the system starts coming up and bringing  9 all the icons up.</p> <p>10 Q Okay. So did I hear you correctly that you  11 have to put in a security code just to get the system  12 running to get to the workstation?</p> <p>13 A Yes, sir.</p> <p>14 Q So you turn on the computer?</p> <p>15 A Yes.</p> <p>16 Q And at some point you have to enter a code  17 just to get it to boot up to get to the workstation?</p> <p>18 A That's correct.</p> <p>19 Q Let me try it this way. How long between  20 turning the computer on to the time that the password  21 to boot up the workstation pops up? The second  22 password you have to --</p> <p>23 A Maybe two minutes at the most. Maybe two  24 and a half minutes.</p> <p>25 Q So you then enter that password with what</p>	<p>1 duplications of icons for the -- like the PMINQ, the  2 different other applications, so what I have to do is  3 wait until all those populate. Then I get rid of the  4 ones that are the extras that I do not need.</p> <p>5 And then at that point I'll bring in --</p> <p>6 I'll -- here comes another application. I'll bring up  7 a -- the Avaya -- what do they call it? It's a --  8 it's a icon where it monitors the phone where I can go  9 in and out of the phone. I'll bring that up first.</p> <p>10 I'll click --</p> <p>11 Q Is that to go into AUX codes?</p> <p>12 A It actually can transfer calls like if a  13 customer is on my phone, I can actually hit a button,  14 and it'll transfer calls for me automatically.</p> <p>15 Q So you go into that?</p> <p>16 A Right. I bring that up first before I do  17 anything. That's automatic. It's on a start-up menu,  18 so it's no -- no -- there's no password for that.</p> <p>19 Okay. Then the next -- I know I bring those two up.</p> <p>20 I bring two applications up first. I click on --</p> <p>21 Lotus Notes is next.</p> <p>22 Q Let me try to work backwards. What is the  23 average time to get all of these tools that you use on  24 a normal basis up? That you log into on a normal  25 day --</p>
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<p>1 I'll call the workstation password?</p> <p>2 A Yes.</p> <p>3 Q And how long before the icons then appear?</p> <p>4 A It varies, but between two and three  5 minutes. When everything is fast, there's no updating  6 going on, between two and three minutes.</p> <p>7 Q Is it sometimes shorter than that?</p> <p>8 A No.</p> <p>9 Q Is it sometimes longer than that?</p> <p>10 A Yes. It -- you can tell when it might have  11 did something or updates are going in there, you know,  12 but it'll -- it'll come up there, and it'll actually  13 tell you that it's doing something.</p> <p>14 Q Is -- is -- are you saying that it's  15 average two to three minutes --</p> <p>16 A Yes.</p> <p>17 Q -- but it can obviously vary?</p> <p>18 A Yes.</p> <p>19 Q Then the icons come up?</p> <p>20 A They start coming up, yes.</p> <p>21 Q Then let's use Lotus Notes. You click on  22 the icon for Lotus Notes?</p> <p>23 A It takes -- it takes -- let me back up. It  24 takes awhile. The Number 1 thing here is that the  25 icons start coming up, but there's also some</p>	<p>1 A That I need.</p> <p>2 Q -- to start your day? And not every tool  3 that you went through, but the ones that we're talking  4 about now?</p> <p>5 A From now, from this point on, or for the  6 whole process of bringing up the workstation and  7 everything like that?</p> <p>8 Q From the time you turn on the workstation  9 until the time you're ready to go on a normal day?</p> <p>10 They're all booted up?</p> <p>11 A I've been -- I've been actually looking at  12 this a lot in the last six months or so, and the best  13 scenario? Eight minutes, seven to eight minutes. The  14 worst scenario, 12 minutes or so, depending on if  15 there's something going on with the systems or the  16 applications. It could be longer. But the best  17 scenario right now, the way that the system is  18 designed and how I bring it up, what I need and  19 everything, eight minutes; seven, eight minutes. And  20 I purposely looked at this on my own. That's why -- I  21 just looked at it, say, you know, let me just look at  22 this, so that's what I've been doing.</p> <p>23 Now, if there's -- if -- the worst  24 scenario, if the system is not coming up or  25 applications are not coming up that I need to work, it</p>

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<p>1 could be longer. So if something that I need to  2 actually help a customer with, there's no way I can  3 get around it -- give you an example. If my Lotus  4 Notes doesn't come up, I can't work.</p> <p>5 Q How often does that happen?</p> <p>6 A I would say something happens at least once  7 or twice a week where it might go, you know, in that  8 12 minute or more range, but that's it.</p> <p>9 Q Well, if -- for example, if Lotus Notes  10 does not come up, do you seek technical assistance?</p> <p>11 A I usually either have to reboot the system,  12 start from beginning, because sometimes it might be  13 some type of error where it won't let me log into  14 Lotus Notes at all. I need that Lotus Notes up  15 because there's really some more applications within  16 that Lotus Notes that we need to do our job.</p> <p>17 Q Is the -- the range you just described --</p> <p>18 A Yes.</p> <p>19 Q -- you've been looking at over the last six  20 months?</p> <p>21 A Yes, sir.</p> <p>22 Q And it's seven to eight minutes best case;  23 up to 12 minutes if there's a problem or an  24 application loading or something like that; is that  25 right?</p>	<p>1 A Actually, I don't know exactly what tools  2 they use. I -- I believe they do use some tools to  3 verify entitlement for their hardware, but I do not  4 know what tools they actually use. I do not know  5 that, but I know they verify entitlement.</p> <p>6 Q Do you know if they log out of their  7 computer each night?</p> <p>8 A I -- I can't answer that, but I would think  9 so.</p> <p>10 Q Do you have any knowledge -- personal  11 knowledge one way or another? Have you talked to  12 anyone about whether they logged out? Log out each  13 night?</p> <p>14 A No. I never have. That's -- no.</p> <p>15 Q Okay. We talked about sequencing, and I  16 think we've covered whether you log into the computer  17 first, log into the Avaya system, kind of the clock-in  18 mechanism --</p> <p>19 A Yes.</p> <p>20 Q -- and the change to that. I'm going to go  21 through those e-mails here in a minute that we've been  22 talking about, Exhibit 2 and Exhibit 3. What I want  23 to ask now, I want to make sure I understand on the  24 expectation side.</p> <p>25 A Yes.</p>
<p>Page 71</p> <p>1 A Correct.</p> <p>2 Q And is that time period you just described,  3 what it takes to turn on the computer, get into your  4 workstation, and log into Lotus Notes, CBCClient, Call  5 Center, Contracts On Line, BrioQuery, Fastpass, PMINQ,  6 CMCICS?</p> <p>7 A It might be a little longer for all those  8 -- I'm talking about getting the system up in, you  9 know, seven -- eight minutes at the most. Eight  10 minutes. I mean, if you -- because after a while I've  11 been doing it for so long, it's automatic. So I'm  12 saying the best scenario, pop -- you know, getting the  13 system everything, eight minutes. The worst scenario,  14 could be longer.</p> <p>15 Q And you are -- on a normal day or when you  16 are logging into your normal tools --</p> <p>17 A Yes.</p> <p>18 Q -- you're logging into those tools I just  19 described?</p> <p>20 A Yes.</p> <p>21 Q At the beginning of your day?</p> <p>22 A Yes. I have to -- those tools I need,  23 definitely, no matter what.</p> <p>24 Q What tools do people on the fourth floor  25 use? You were talking about earlier?</p>	<p>Page 73</p> <p>1 Q Currently -- okay? Currently -- is it your  2 testimony that you are currently expected to be logged  3 into your tools and the Avaya system at the start of  4 your scheduled shift?</p> <p>5 A I would say -- me personally, I would say  6 the term "as early as possible" is being used. I  7 think it's even said in here, I think, somewhere.  8 They don't -- they don't amplify that phrase like you  9 indicated, being available and ready to take calls at  10 your start time. They don't use that verbiage  11 anymore.</p> <p>12 Q You said as early as possible, and then you  13 pointed to something. Were you pointing to an  14 exhibit?</p> <p>15 A Basically -- that's basically what's --  16 what's -- I don't know if it's in here or not. Let's  17 see.</p> <p>18 Q What exhibit are you looking at there, Mr.  19 Seward?</p> <p>20 A I'm sorry. I'm looking at the Exhibit 2  21 and 3.</p> <p>22 Q If you look at Exhibit 2, which I think is  23 on top there?</p> <p>24 A It -- I'm looking at them -- Exhibit 3. It  25 says, "Please be advised that you are required to be</p>

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20 (Pages 74 to 77)

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1 available as quickly as possible at your start time."	1 A I got an October 26.
2 Q And the date on Exhibit 3?	2 Q Okay. Look right at the middle of the
3 A But may -- the date on Exhibit 3 is	3 page.
4 April -- April 7 of 2008. Now may I expound?	4 A Oh, okay. I'm sorry.
5 Q Sure.	5 Q Is that October 4?
6 A Notice there's -- it says, "No one should	6 A Yes.
7 be in AUX-3 at their start time without prior	7 Q And that's to the SCET?
8 approval."	8 A Correct.
9 Q And what does that mean?	9 Q And you're part of that team?
10 A That means unless you got something going	10 A Correct.
11 on, you better be in and available.	11 Q And I assume you received this e-mail?
12 Q There are several AUX codes; correct?	12 A Correct.
13 A That's correct.	13 Q And it says, "Please be advised that you
14 Q AUX-3 is just one of the AUX codes?	14 are required to be available as quickly as possible at
15 A That's correct.	15 your start time"; right?
16 Q And AUX-3 is actually -- describe what your	16 A Yes.
17 understanding of AUX-3 is?	17 Q Did you -- how did you interpret that?
18 A AUX-3 is like an admin code, like you're in	18 A As soon as you can get your system up and
19 an administrative code.	19 running, you should hit start -- available.
20 Q And when you -- when you log into the	20 Q Did you talk to Miss Williams about what
21 phone, the Avaya first, the clock-in mechanism you	21 was -- what she meant by this e-mail?
22 described --	22 A No, sir.
23 A Yes, sir.	23 Q Did you talk to anyone else about how they
24 Q -- if you don't press that available button	24 interpreted this e-mail?
25 on the phone, what AUX code does it default to?	25 A Actually, there was discussions at
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1 A I -- I'm in AUX-3.	1 lunchtime about the e-mail.
2 Q It defaults to AUX-3?	2 Q And what were those discussions?
3 A No. I'm in AUX-3. If I don't come out of	3 A There was discussions about people being
4 there, it's going to keep me in AUX-3, so you are	4 marked late or being reprimanded because they was in
5 saying once -- when I log on and I'm in -- I put	5 AUX-3.
6 myself in AUX-3.	6 Q Who were those discussions with?
7 Q So you go into AUX-3?	7 A My fellow employees.
8 A I go right into AUX-3.	8 Q Who specifically?
9 Q And you can go into AUX-3 through the	9 A I talked to Sharrie Brown. Sharrie Brown.
10 phone? You don't have to be in the computer yet?	10 Q Spelled with a C?
11 A That's correct.	11 A S-S-H-A-R-R-I-E, and Brown is the last
12 Q So your practice is when you log into the	12 name.
13 phone first, before you boot up all these tools we've	13 Q And what did she say?
14 been talking about --	14 A There was -- something happened. Just
15 A Yes.	15 basically that there was some kind of discrepancy
16 Q -- you go into AUX-3?	16 about, you know, if I'm -- you know, logging in too
17 A Yes.	17 early or, you know, and then if they forgot to log in
18 Q And Exhibit 3 is what you're looking at	18 while they're bringing up their system, they get
19 there --	19 marked latenesses.
20 A Yes.	20 So then -- then this was -- the note came
21 Q -- is that correct? That's dated	21 out, and then they said, no one should be in an AUX-3
22 October 4, 2007, from Miss Williams; right?	22 at their start time. In other words, if -- I took
23 A The October 26 is Exhibit 2.	23 this as -- if I'm bringing my system up and I'm in
24 Q No. I'm -- did I read that wrong? I'm	24 AUX-3 and I'm bringing up my system and I'm not ready
25 sorry. October 4, 2007.	25 to go yet -- it says here no one should be in AUX-3,

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21 (Pages 78 to 81)

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<p>1 so basically you're supposed to be in available.</p> <p>2 Q Couldn't you be in another AUX code?</p> <p>3 A The only thing you can be in, you can be in</p> <p>4 what we call an ACW code, which is like -- you're like</p> <p>5 in abeyance code, like you're this -- you're not -- we</p> <p>6 use it for going to the bathroom.</p> <p>7 Q ACW, does that stand for after call work?</p> <p>8 A Yeah. See, you're like in abeyance status.</p> <p>9 You're not saying you're in admin mode. You're not in</p> <p>10 a training mode. You're not in -- I'm trying to</p> <p>11 think -- a meeting code. You're -- basically, we use</p> <p>12 it for going to the bathroom.</p> <p>13 Q Let me ask this question. If you -- you</p> <p>14 personally when you log into the Avaya system, go into</p> <p>15 AUX-3 as a practice; correct?</p> <p>16 A Correct.</p> <p>17 Q If you don't go into any AUX code, if you</p> <p>18 don't take any steps to go into an AUX code --</p> <p>19 A Uh-huh.</p> <p>20 Q -- do you know what the default AUX code</p> <p>21 is?</p> <p>22 A It should be ACW. If I -- if I -- if I log</p> <p>23 on, it should be an ACW, I believe.</p> <p>24 Q This e-mail that is Exhibit 3 does not</p> <p>25 restrict you from going into another AUX code;</p>	<p>1 A Yes.</p> <p>2 Q So you agree that SCET is not under the</p> <p>3 schedule adherence measurement; right?</p> <p>4 A Yes.</p> <p>5 Q Then it says, "All calls route to Atlanta</p> <p>6 SCET from 7 a.m. to 7 p.m." Right?</p> <p>7 A Yes.</p> <p>8 Q Then it says, "If you arrive early to work,</p> <p>9 it is okay to log in. Just go into AUX-3"; correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. So this e-mail that was sent roughly</p> <p>12 three weeks later than the e-mail that is Exhibit 3 is</p> <p>13 now giving you permission to go into AUX-3?</p> <p>14 A Right. And you don't need prior approval.</p> <p>15 Q Right. At that point?</p> <p>16 A Right.</p> <p>17 Q Then the last sentence is, "You are</p> <p>18 required to start working at your scheduled start</p> <p>19 time"?</p> <p>20 A Correct.</p> <p>21 Q Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Now, you in this case are taking the</p> <p>24 position that logging into all your tools is work,</p> <p>25 right, that you should be compensated for?</p>
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<p>1 correct?</p> <p>2 A That's correct.</p> <p>3 Q Did you talk to Miss Williams about being</p> <p>4 able to go into other AUX codes when you are -- during</p> <p>5 the time you are logging in?</p> <p>6 A I don't recall, no.</p> <p>7 Q Let's turn back to Exhibit 2, Mr. Seward,</p> <p>8 and this e-mail is from Miss Williams again to the</p> <p>9 SCET Team, and it's dated October 26, 2007; correct?</p> <p>10 A Uh-huh, yes.</p> <p>11 Q Did you receive this e-mail?</p> <p>12 A I believe so, yes.</p> <p>13 Q And this is roughly three weeks -- it looks</p> <p>14 like it's three weeks and a day after the e-mail of</p> <p>15 exhibit -- that is Exhibit 3; right?</p> <p>16 A Correct.</p> <p>17 Q So a few weeks later; right?</p> <p>18 A Yes.</p> <p>19 Q And here Miss Williams says, "Team,</p> <p>20 schedule adherence is a measurement used in the call</p> <p>21 center to ensure agents are on the phones at certain</p> <p>22 times"; right?</p> <p>23 A Correct.</p> <p>24 Q Then it says, "SCET today is not required</p> <p>25 to use this measure"; correct?</p>	<p>1 A Yes.</p> <p>2 Q Okay. Did you talk to Miss Williams about</p> <p>3 whether she too had that view?</p> <p>4 A No, sir.</p> <p>5 Q Let me go back to I think how we started</p> <p>6 this discussion, which is, let's talk currently.</p> <p>7 Currently is it your understanding that you need to,</p> <p>8 at the start of your shift -- let me ask this a</p> <p>9 different way. Strike that. What is your current</p> <p>10 shift?</p> <p>11 A Ten to seven.</p> <p>12 Q How long roughly have you had that shift?</p> <p>13 A Since the beginning of time.</p> <p>14 Q Thirty years?</p> <p>15 A No. No. No.</p> <p>16 Q I know.</p> <p>17 A No. But it's -- since we came on -- on --</p> <p>18 on the floor to take the calls and when we officially</p> <p>19 started taking calls, our start time was 10 o'clock.</p> <p>20 Q And you're talking about within SCET;</p> <p>21 right?</p> <p>22 A That's correct, sir.</p> <p>23 Q Is -- currently is it your understanding</p> <p>24 that at 10 o'clock on a day you're scheduled to work,</p> <p>25 you need to be logged into Avaya and the tools you</p>

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22 (Pages 82 to 85)

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1 normally use that we discussed earlier, by 10 o'clock?	1 Q Who -- did you have discussions with people
2 A Yes.	2 who were frustrated?
3 Q And where does that understanding come	3 A Well, I know Miss Brown was. In this group
4 from?	4 everybody as a whole, but, you know, complaints are --
5 A From the management. She -- she amplifies	5 you don't want to be known as a complainer, so they
6 it to us, and if you look at the exhibit -- the	6 just keep it down to a low roar. That's it.
7 Exhibit 2, the last sentence that she actually	7 Q Well, let me -- other than Miss Brown can
8 indicates on October 26 says, "You are required to	8 you remember anyone else who you talked to
9 start working at your scheduled start time."	9 specifically about being frustrated?
10 It actually contradicts the other one	10 A I'm just going to mention that one name.
11 where it says here, "Start at your most -- available	11 Q The -- your understanding of the
12 as quickly as possible of your start time," and then	12 expectation to be logged into your tools that you
13 in this one here, in Exhibit 2, she actually says,	13 normally use and into the Avaya system --
14 "You are required," and she -- I don't want to expound	14 A Yes, sir.
15 on it any more. I just want to say that she expects	15 Q -- that's been your expectation going back
16 us to be up and ready and start working at our start	16 during your entire tenure with Miss Williams, right?
17 time, not ten after, five after. She expects us to be	17 A Yes, sir.
18 ready at that time.	18 Q And with your time with Mr. Bethea?
19 Q Is your understanding of what Miss Williams	19 A Oh, yes, sir.
20 expects of you currently, and that's what we've been	20 Q And your -- I believe your testimony has
21 talking about --	21 been that that is the general environment, so others
22 A Yes.	22 have that same expectation?
23 Q -- driven by these two e-mails that are	23 A Could you rephrase that question?
24 Exhibit 2 and Exhibit 3?	24 Q Well, do you know if others have that same
25 MR. ZOURAS: Let me just object to form,	25 expectation -- or have the same understanding of the
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1 driven by. To the extent you can answer it, go	1 expectation? And by expectation I mean the
2 right ahead.	2 expectation that you described that you be logged into
3 THE WITNESS: This is the environment that	3 your tools --
4 we're in. It's exhibited and expounded on at	4 A Uh-huh.
5 team meetings, during the workday, that we're	5 Q -- and the Avaya system by the start of
6 supposed to be up and ready and available at our	6 your scheduled time?
7 start time. It just -- this one e-mail does not	7 A Right. That's -- that's the normal
8 reflect the communications, whether it's verbally	8 understanding on the floor. Partner World, the other
9 or by Sametime, instant messaging, e-mails. I	9 entitlement teams. You have to be logged on and
10 -- I remember this -- these two e-mails because	10 available and ready to take calls at your start time.
11 it was -- it was -- people were getting	11 Everybody talks -- everybody -- it's -- that's common
12 frustrated.	12 knowledge.
13 BY MR. RAY:	13 Q And a minute ago you said around this
14 Q People were getting frustrated with these	14 time -- I think you were referring to the time of the
15 two e-mails that are Exhibit 2 and 3?	15 Exhibit 2 and 3 --
16 A Well, no. Basically -- basically, you have	16 A Uh-huh.
17 really good employees who are -- who are, I can almost	17 Q -- people were frustrated?
18 say never late, but they might -- might slip and	18 A Uh-huh.
19 say -- and they might forget to log in on their	19 Q And if the expectation has always been to
20 systems, but they'll be over there -- they're working	20 be logged into all these tools and phone ready at the
21 bringing up their systems and everything, and they	21 start of your shift, why were people frustrated?
22 just happen to forget. And this was an exercise where	22 A Well, they were there working, and
23 what is the difference if we just log in right -- you	23 sometimes it slipped their mind to log -- to log on at
24 know, because quote, unquote, we're not on a schedule	24 the last minute, so they might be bringing up their
25 adherence.	25 system and lets you know it's 10:01. Man, I'm going

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23 (Pages 86 to 89)

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<p>1 to be marked late. And they've already been sitting  2 there like 20 minutes bringing up their system. You  3 see what I'm saying?</p> <p>4 And so what happens, they get caught, if  5 I can use the term, you know, with their shoes off or  6 whatever, and, you know, they say, oh, I forgot to log  7 on. Because what happened was, the dictation was, two  8 minutes -- one minute or two minutes before your start  9 time, then you log onto your system.</p> <p>10 Q And who gave that direction?</p> <p>11 A That -- that normally came from our lead  12 folks, the lead person for the team and management.  13 Their -- their input was that, you know, by  14 logging in early, it would affect our productivity  15 numbers.</p> <p>16 Q But then these e-mails that are Exhibit 2  17 and 3 corrected that --</p> <p>18 A Right.</p> <p>19 Q -- for the SCET -- SCET Team?</p> <p>20 A That's correct, because I was on the team  21 at that time. I'm not talking about Teach. I'm  22 talking about SA -- S --</p> <p>23 Q Was IBM Teach on schedule adherence?</p> <p>24 A Yes. Yes.</p> <p>25 Q And does logging in early, when you say it</p>	<p>1 Q Mr. Bethea told you that?</p> <p>2 A Yes.</p> <p>3 Q Miss Williams also?</p> <p>4 A We were -- we were told not to log in until  5 one or two minutes before our start time.</p> <p>6 Q Up until Exhibit 2 and Exhibit 3?</p> <p>7 A Yes, correct. That's correct. And, see,  8 that's what is interesting about both of these  9 exhibits, because there was such a big emphasis on  10 logging in just before your start time, and now here,  11 in this -- in this e-mail, they said, hey, it's no  12 problem; go ahead and log in anytime you want; it's  13 not a problem.</p> <p>14 Q I'll come back to that in just a second.</p> <p>15 A Now, it's important -- may I expound?</p> <p>16 Q Sure.</p> <p>17 A There's -- there's a -- we are -- we're  18 given guidelines. It says here that we're not on  19 schedule adherence, but yet we're given guidelines not  20 to use this code, AUX-3, more than ten percent of our  21 time. Same thing with ACW. We have to keep on saying  22 that we're not on schedule adherence.</p> <p>23 Q Let me -- well, let me ask a question  24 first. When I was asking if your understanding of the  25 expectation regarding what you needed to do to be</p>
Page 87	Page 89
<p>1 affects the numbers --</p> <p>2 A Yes.</p> <p>3 Q -- is it your understanding it affects that  4 schedule adherence?</p> <p>5 A Schedule adherence and the -- the verbiage  6 that we were given most of the time was the  7 productivity numbers.</p> <p>8 Q Which productivity numbers?</p> <p>9 A I guess whatever numbers are generated.</p> <p>10 The revenue is generated versus the head count, you  11 know, that -- I guess the -- you got ten people  12 producing X amount of revenue. Their verbiage was  13 that by logging in too early, it would affect our  14 productivity numbers. In other words, we're showing  15 too many man-hours to perform the job that we're  16 doing.</p> <p>17 Q And that didn't take into account -- your  18 understanding is that doesn't back out AUX time?</p> <p>19 A We were not allowed to log in early. We  20 was not allowed to log in early.</p> <p>21 Q Who didn't allow you to log in early?</p> <p>22 A The management team. We were told  23 specifically not to log in early. We were told  24 constantly to don't log in until possibly one or two  25 minutes before your start time.</p>	<p>1 ready for the start of your shift was driven by  2 Exhibit 2 and 3, you discussed the environment that it  3 was expounded on -- expounded on at team meetings,  4 Sametimes, and you referenced to e-mails?</p> <p>5 A Yes.</p> <p>6 Q So do you believe there are other e-mails  7 out there that would clarify that expectation or that  8 addressed that expectation?</p> <p>9 A I would think so, sir, but I cannot --</p> <p>10 because I -- I had to reflect to remember this e-mail,  11 but possibly -- there's definitely Sametime  12 information out there, probably.</p> <p>13 Q Let me hand you what's been marked as  14 Exhibit 4.</p> <p>15 (Thereupon, marked for identification,  16 Defendant's Exhibit D4.)</p> <p>17 MR. ZOURAS: Thanks.</p> <p>18 BY MR. RAY:</p> <p>19 Q And that is, I believe, the same e-mail  20 that is Exhibit 2 forwarded to your -- or -- well, I  21 shouldn't say that. Forwarded to the e-mail address  22 SewardCYK at AOL dot-com on April 7, 2008. Do you see  23 that?</p> <p>24 A Yes.</p> <p>25 Q Is SewardCYK at AOL dot-com your personal</p>

Witness: Charles Seward

24 (Pages 90 to 93)

Page 90	Page 92
<p>1 e-mail?</p> <p>2 A Yes.</p> <p>3 Q Why did you forward that e-mail to your</p> <p>4 personal account?</p> <p>5 A Because I wanted to keep a record of this</p> <p>6 because I was -- I didn't remember this e-mail. This</p> <p>7 e-mail came from a fellow employee who was upset about</p> <p>8 this current situation also.</p> <p>9 Q Who was that?</p> <p>10 A Sharrie Brown. She said, yes, we were told</p> <p>11 that all the time. I mean, they keep telling. I</p> <p>12 remember she was complaining about it, and then --</p> <p>13 people as a whole was complaining about it, and then</p> <p>14 she said, I kept that e-mail, you know, because there</p> <p>15 were times when -- she's very conscientious, so -- you</p> <p>16 know, she is never late, things of that nature. But</p> <p>17 the reason why I forwarded that, because this is a</p> <p>18 good example, where all of the sudden, the rules were</p> <p>19 thrown out the door.</p> <p>20 Q What rules were thrown out the door by this</p> <p>21 e-mail?</p> <p>22 A About these signing on a minute before the</p> <p>23 start time, because there was a high focus. There's</p> <p>24 -- I don't know how to -- there's no adjective I can</p> <p>25 explain that -- on the drilling that we would get</p>	<p>1 BY MR. RAY:</p> <p>2 Q Do you know what the -- is your AOL e-mail</p> <p>3 account, do you know whether it's swept periodically</p> <p>4 or automatically take out e-mails?</p> <p>5 A I -- I should be able to pull everything,</p> <p>6 my history, anything that I sent to myself. I should</p> <p>7 be able to pull it, because I send like stuff for</p> <p>8 whether it's a 401(k). It should have everything in</p> <p>9 there. So I remember this one because before that, it</p> <p>10 was like, there's no way. They say you better log in</p> <p>11 one or two minutes before. That's why I kept --</p> <p>12 Q Did you send, then, to your personal</p> <p>13 e-mail, any e-mails that you had that you thought</p> <p>14 beared on your -- your position in this case?</p> <p>15 A Yes. Yes.</p> <p>16 Q Any Sametime messages? Did you forward any</p> <p>17 of those to your e-mail?</p> <p>18 A No. No. I keep them. They're in my -- if</p> <p>19 something comes up, I will just print screen and then</p> <p>20 put it -- in fact, I still have it out there just as a</p> <p>21 draft. If you look at -- if you go out there, there's</p> <p>22 like -- if you go out and look at my e-mail drafts,</p> <p>23 you'll see that there's a blank subject line, draft,</p> <p>24 and in there is screen shots or my Sametimes that I</p> <p>25 think is important, but to be honest, I don't think I</p>
<p style="text-align: center;">Page 91</p> <p>1 about logging in a minute or so before the start time,</p> <p>2 and this here threw that whole theory out -- out the</p> <p>3 door.</p> <p>4 Q And so you forwarded this to yourself --</p> <p>5 A Yes.</p> <p>6 Q -- to keep track of it?</p> <p>7 A To keep track of it, that's correct.</p> <p>8 Q And you forwarded other e-mails to</p> <p>9 yourself?</p> <p>10 A That's correct. Anything that -- that I</p> <p>11 felt that was -- not off -- I don't want to use the</p> <p>12 word "offensive," but to defend my position.</p> <p>13 Q And how many e-mails roughly did you</p> <p>14 forward to yourself on this issue?</p> <p>15 A On this issue, that -- I can go and check,</p> <p>16 but maybe six or -- I'm not sure.</p> <p>17 MR. RAY: I would just ask for the record</p> <p>18 that we get those. We only got three, and this</p> <p>19 one was not produced by you guys, I don't think.</p> <p>20 Well, I guess it could be. No, this one was not.</p> <p>21 There was another one that was. So I would ask</p> <p>22 for the record, that we check that --</p> <p>23 THE WITNESS: Yes.</p> <p>24 MR. RAY: -- and --</p> <p>25 MR. ZOURAS: Absolutely. We will.</p>	<p style="text-align: center;">Page 93</p> <p>1 have any Sametimes pertaining to this issue.</p> <p>2 MR. ZOURAS: For purposes of clarity, is</p> <p>3 that the same as IM? Instant message?</p> <p>4 THE WITNESS: Right, instant message. Yes.</p> <p>5 Sametime is the same.</p> <p>6 MR. ZOURAS: Thank you.</p> <p>7 MR. RAY: I'm not positive if they're</p> <p>8 exactly synonymous.</p> <p>9 MR. ZOURAS: Okay. Thank you.</p> <p>10 BY MR. RAY:</p> <p>11 Q Give me one second here. I want to address</p> <p>12 something that I asked.</p> <p>13 THE WITNESS: Do I get to keep this?</p> <p>14 MR. ZOURAS: Oh. We're going to attach</p> <p>15 copies to the deposition, so --</p> <p>16 THE WITNESS: Okay.</p> <p>17 MR. ZOURAS: -- you'll have access to it.</p> <p>18 BY MR. RAY:</p> <p>19 Q I want to go back and cover a little more</p> <p>20 background to understand some timing issues. You live</p> <p>21 at 315 Carriage Lake --</p> <p>22 A Yes.</p> <p>23 Q -- is that correct? How far is that</p> <p>24 roughly from the call center?</p> <p>25 A Thirty-seven miles.</p>

Witness: Charles Seward

25 (Pages 94 to 97)

Page 94	Page 96
1     Q   Thirty-seven miles? All right. And how 2   long does it take you on average to commute from your 3   home to the call center?	1   drops me off first, it's a 35-minute commute 2   sometimes. That's how easy it is, because we just go 3   straight through downtown, through the HOV lane, and 4   we just come straight here. So it's still 40 5   minutes -- 40 minutes.
4     A   Forty to 45 minutes. I come in late. No 5   traffic.	6     Q   And I assume even though you have the 7   10 o'clock start time, that the commute time can vary 8   depending on accidents, those types of things?
9     A   Currently, yes.	9     A   No. Not -- well, not really because I 10  normally don't come straight here. If I drop her off, 11  I normally don't straight -- come straight to work, 12  rather.
10    Q   What time do you typically leave your house 11  to go to the office?	13    Q   What time do you typically arrive at the 14  call center?
12    A   If no stops, just straight run, nine -- ten 13  minutes to nine, a quarter -- a quarter to nine.	15    A   Currently it depends. Again, it varies 16  from situation. If I -- I tend to stop before I go. 17  I tend to -- not to come straight to work. So I try 18  right now to get 25 to 20 minutes beforehand. That's 19  currently.
14    Q   Quarter to nine?	20    Q   And when you say currently, what period of 21  time does that cover?
15    A   A quarter to nine now, currently.	22    A   The last few months. Two months, three 23  months.
16    Q   And you said you --	24    Q   Prior to that, were you getting to work 25  earlier? Later?
17    A   I mean, I'm sorry. Quarter -- quarter to 18  nine, yes.	
19    Q   And you said you've been on this 20  ten-to-seven shift since you started SCET?	
21    A   Correct.	
22    Q   So is a quarter to nine the average time 23  you leave for --	
24    A   It actually varies. It varies on the day 25  of the week, time of the year. That's why I'm saying	
Page 95	Page 97
1   it's -- it varies, actually.	1   A   Half an hour prior. 9:30ish.
2   Q   Do you ever car pool?	2   Q   And I assume these times are average times?
3   A   Yes.	3   A   Average times. Thirty -- usually between
4   Q   Who do you car pool with?	4   20 and 25 of ten. Twenty -- 20 after nine to -- to --
5   A   With my wife.	5   to 25 minutes to ten.
6   Q   Does she work -- does she work at the same 7   facility?	6   Q   And there have been times you've been late?
8   A   No, sir.	7   A   Yes. There's times I've been late, yes.
9   Q   Where does she work?	8   Q   When you arrive -- let's just pick 9:30.
10   A   Works at Highlands. Highlands location in 11  Smyrna, Georgia.	9   You arrive at 9:30?
12   Q   Who gets dropped off first?	10   A   Yes, sir.
13   A   Let me see. It varies. The main reason is 14  because sometimes she'll -- it's faster to come to me 15  first. I car pool maybe two to three times a week 16  now, currently. Like today, I didn't. Maybe 17  yesterday I didn't. Tomorrow I won't. So it could 18  be -- really, it could be no car pooling to maybe one 19  to three times a week. It depends on what we're 20  doing.	11   Q   Your shift doesn't start until ten?
21   Q   And is that -- has that been going on for 22  the last couple of years --	12   A   Correct.
23   A   No.	13   Q   We talked earlier about the fact that it
24   Q   -- or is that fairly recent?	14  takes you seven to eight to up to 12 minutes to log 15  into your tools, and --
25   A   It's fairly recent with the gas, and if she	16   A   Yes.
	17   Q   -- it takes a couple seconds to log into 18  the Avaya tool. What do you do if you get there at 19  9:30? You go to the break room? Do you read the 20  paper? Do you --
	21   A   Prior -- before this situation -- before or 22  after? Currently or before?
	23   Q   Let's start with current, and then we'll 24  define current?
	25   A   Currently I really don't do too much at all

Witness: Charles Seward

26 (Pages 98 to 101)

Page 98	Page 100
<p>1 at my workstation until my start time. I might -- I  2 might once in a while hit the start-up button, but  3 normally I don't do anything now.</p> <p>4 Q Until your start?</p> <p>5 A Until my start time. I might push a button  6 and get it going, something like that once in a while,  7 but if you check my system or whatever, you'll see  8 that now I usually don't try to do anything until  9 after my start time.</p> <p>10 Q Including logging into your --</p> <p>11 A That's correct.</p> <p>12 Q And when you say current, let's define  13 that. How long are you including? How much time are  14 you including in current as you just described it?</p> <p>15 A I would say -- let's say June of last year  16 to now, current. No, I'm sorry. Let me rephrase  17 that. I'm thinking -- I'm thinking June of this year.  18 June -- I could be -- this is ballpark.</p> <p>19 Q Roughly?</p> <p>20 A If they look at my sign-ons and how I'm  21 bringing up the system, I believe it's around the  22 beginning of June that I started focusing on just  23 working after my start time.</p> <p>24 Q And why did you do that?</p> <p>25 A Two reasons. Number 1, I wanted to see</p>	<p>1 started the practice of not doing anything until your  2 shift starts?</p> <p>3 A That's correct.</p> <p>4 Q Including logging into tools?</p> <p>5 A Basically. It might -- other than maybe  6 hitting start on the button -- on the system, you  7 know, prior to 10 o'clock, but most of the time I  8 don't start trying to do any -- bringing up the  9 applications.</p> <p>10 Q Prior to June -- roughly June of '08 --</p> <p>11 A Yes.</p> <p>12 Q -- prior to when you started this practice,  13 what would you do when you arrived at, let's say,  14 9:30, half an hour before your shift time?</p> <p>15 A I would -- I would start bringing up my  16 system. I would -- at least bring up the actual  17 workstation, meaning that it powered up. Now, I might  18 not have -- basically, I would not start trying to  19 bring up the applications until I was going to  20 actually sit down and not move again.</p> <p>21 So it was probably -- okay. I might hit  22 start on the system, let the system start bringing  23 itself up, and then probably -- my rule of thumb was  24 15 minutes of, start bringing up your systems because  25 you don't know what's going to happen. So I usually</p>
Page 99	Page 101
<p>1 what the average was, and second of all, I'm not  2 getting paid to come in here early and bring up my  3 system.</p> <p>4 Q So roughly in June of '08 you started this  5 process?</p> <p>6 A Yes. Basically, I wanted -- I wanted to  7 see -- counselor, I wanted to see realistically what  8 -- if -- every different situation would come up,  9 whether there was an application that didn't come up  10 or the system would hang or come up and then I have to  11 take it back down or -- I just wanted to see what  12 would -- see what would happen. It was not an -- you  13 know, antistical (phonetic) or getting -- being -- I  14 don't know how to explain it, but I wasn't being  15 spiteful or anything.</p> <p>16 I wanted to see in the current  17 environment what the -- you know, being focused on the  18 workstation itself, seeing how long on the average it  19 would take to do this? And what I did was -- I still  20 do it today. I even will factor in -- I'll start  21 bringing up my system and just see how long it take to  22 come up.</p> <p>23 Q But starting in June 2008 --</p> <p>24 A Yes, sir.</p> <p>25 Q -- or roughly in June of 2008, you have</p>	<p>1 try to do that so I'll be in available at around  2 10 o'clock, my start time.</p> <p>3 Q So you would -- and again I'm using the  4 scenario where you arrived roughly a half hour before?</p> <p>5 A Yes, sir.</p> <p>6 Q And this is pre-June of '08, or roughly '08?</p> <p>7 A Yes, sir.</p> <p>8 Q You might start the computer to get it up  9 to the screen, the workstation?</p> <p>10 A Right. Where you have all your icons up.</p> <p>11 Q And then what would you do? Go get coffee?</p> <p>12 Sit there? What would you do while you were --</p> <p>13 A I heated my coffee. I like it hot, so that  14 might take a minute or two. Then I come back and then  15 start bringing up the icons. That's it.</p> <p>16 Q And when would you start bringing up the  17 icons?</p> <p>18 A Right away. Because I wanted -- prior to  19 June, or May 1, I would do my best to try to have all  20 those systems up and ready and I'll be in available as  21 close to my start time as possible.</p> <p>22 Q And earlier you said seven to eight to 12  23 minutes to do that?</p> <p>24 A Yes. I mean, this is -- after June 1  25 started just taking a look and see how -- you know,</p>

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27 (Pages 102 to 105)

Page 102	Page 104
<p>1 what's going on right now with the systems, you know.  2 Because they have changed again. They have changed  3 again, the systems itself. We have other applications  4 that we got to bring up, and they have to work. The  5 SBClient is new.</p> <p>6 Q When did that become --  7 A About a month -- about a month now, I  8 guess.</p> <p>9 Q So preJune of '08 this -- you would turn on  10 the computer?</p> <p>11 A Yes, sir.</p> <p>12 Q I think you said 15 minutes was your rule  13 of thumb?</p> <p>14 A Yes.</p> <p>15 Q At a quarter till, you would start the  16 process of booting up the tools; is that right?</p> <p>17 A Yes, sir.</p> <p>18 Q And then if it was an average day, you'd be  19 in your tools in seven to eight minutes roughly?</p> <p>20 A That's -- probably a little bit longer, but  21 without any instances where a system might -- I would  22 say -- let me -- let me back up a little bit. When I  23 said seven to eight minutes, that's where I started at  24 eight -- I mean at ten. Everything's clean, and I'm  25 doing my -- I would say now, I mean, prior; I would</p>	<p>1 Q Let's talk before that time.  2 A Uh-huh.  3 Q Prior to June of 2008 did you specifically  4 look at how long it took you to log into your tools?</p> <p>5 A I was not focused on how long it took me to  6 come up, but that -- that rule -- as you indicated,  7 that rule of thumb that you was speaking about  8 earlier, 15 minutes of is in case, because there's  9 always something came up. Some -- nothing came up  10 five days a week, smooth and nothing hung, application  11 did not come up. Lotus -- something might happen to  12 Lotus Notes, so to allow yourself error, a buffer, I  13 mean, 15 minutes at least.</p> <p>14 Q Do you know if others used that 15-minute  15 rule of thumb?</p> <p>16 A That, I can't speak on, but if they wanted  17 to be in available, they had to be there -- they had  18 to be there early or, you know, they were -- there  19 were lead people that might see you log in on your  20 phone, but if you are not up and -- if you are not in  21 available, what's going on?</p> <p>22 Q Well, there was -- there's -- certainly at  23 some point, because we talked about it earlier, your  24 understanding was you could log into your phone before  25 logging into the tools?</p>
Page 103	Page 105
<p>1 say at least eight to ten minutes, yes.  2 Q What was different prior? Why would it  3 take longer to boot up?</p> <p>4 A The systems, they change. Sometimes you'll  5 -- like even now, even -- there's some applications  6 that go up and down, up and down all day long, but  7 normally it might do it once when you first bring it  8 up and then maybe once during the day or something  9 like that, but if something like that happens, then  10 you're just going to have to add on some more time to  11 it. It's -- in other words, it's never a clean  12 start-up, I mean, five days a week.</p> <p>13 Q When we were talking about the bootup time  14 before, you were talking currently --</p> <p>15 A Yes.</p> <p>16 Q -- that you had looked at it. I think you  17 said you looked at it over the last six months or so?</p> <p>18 A Yes. From June to now. I'm sorry. I said  19 six months. I mean from June, beginning of June to  20 currently.</p> <p>21 Q Okay. And I think that was the seven to  22 eight minutes to roughly 12 minutes --</p> <p>23 A Yes.</p> <p>24 Q -- if there's a problem?</p> <p>25 A Yes.</p>	<p>1 A Sure, sure, sure.  2 Q And when did you start that again?  3 A Meaning?  4 Q When did you understand that you could log  5 into the phone before logging into the tools?</p> <p>6 A Back in October.  7 Q Of '07?  8 A '07.  9 Q So the first part of '08, so it's after  10 October of '07, you could log into your phone and then  11 log into your tools. Did you still use the 15-minute  12 rule of thumb?</p> <p>13 A Yes, uh-huh. I had to. You had to.  14 Otherwise you would not be ready by your start time.  15 Q You would be clocked in, though, through  16 the Avaya?  17 A Yes. You'd be clocked in, but you would  18 not be ready to take calls.  19 Q And how would -- who would -- was there a  20 report or something that showed if you were not ready  21 to take calls?</p> <p>22 A Yes. Yes. You could see who was in  23 available and who's not. The Avaya phone system --  24 phone system is not just a phone system, per se, just  25 to, you know, log in, clock in, clock out. You can</p>

Witness: Charles Seward

28 (Pages 106 to 109)

Page 106	Page 108
<p>1 produce any type of reports you want. You can break  2 them down in any kind of increments. Start time,  3 break times. I used to run those reports. I can't  4 remember. It's so many different reports you can run  5 off that. You can break it down to the individual  6 agents, and you can see when they actually logged in.  7 They can see anything they want on it.</p> <p>8 Q Are there -- have you ever -- and let's  9 start -- let's go back preJune of '08. We've talked  10 about what you've been doing since June of '08, and I  11 want to go before that.</p> <p>12 A Yes.</p> <p>13 Q Have you ever logged into the phone,  14 started logging into your tools, and before all the  15 tools are up that you normally use, hit available?  16 Because you can handle a call while booting up, or at  17 least booting up some of the tools?</p> <p>18 A Before my start time?</p> <p>19 Q Even at -- at your start time?</p> <p>20 A I would say knowing me, I probably have  21 done it, so in other words, as a -- as the systems are  22 coming up, I know I got two of them that I know I can  23 start a call with and the other ones are coming.</p> <p>24 Q Right.</p> <p>25 A Yes, I've done that.</p>	<p>1 specifically say I did it.</p> <p>2 Q Do you know if other people have done it?</p> <p>3 A Oh, heck, yeah. Oh, heck, yeah, but I'm  4 not going to name names, and it's the environment that  5 we're in, and that goes back to that same thing about  6 being available at your start time. Folks are  7 mindful. You might log in, but you're supposed to be  8 available. You're supposed to be available also.</p> <p>9 Q I want to make sure I've covered the time  10 period with the log-in time.</p> <p>11 A Yes.</p> <p>12 Q We talked about since June of '08 you  13 looked at the log-in times, and it was seven to eight  14 to up to 12?</p> <p>15 A Yes.</p> <p>16 Q Prior to that time, I think I asked, did  17 you ever really look at and analyze the log-in times,  18 and I'm not sure you answered that specific question.  19 You gave me some information, but did you -- and I'll  20 ask it again: Did you prior to this, June of '08 to  21 current time period, look at that issue?</p> <p>22 A Not like I did after June 1.</p> <p>23 Q Prior to June of '08 there have -- is it  24 your recollection that it took a little longer to log  25 into your normal tools than it did post-June of '08</p>
Page 107	Page 109
<p>1 Q So you're -- there have been times -- again  2 we're preJune of '08 -- where you start logging into  3 your tools before your shift starts, you logged into  4 Avaya, and you hit available on the phone before all  5 those tools we talked about, the normal tools, are  6 actually booted up?</p> <p>7 A At my start time.</p> <p>8 Q As of your start time?</p> <p>9 A Start time. Not -- I really don't try and  10 do that before my start time.</p> <p>11 Q But at your start time?</p> <p>12 A Because I end up getting -- a customer will  13 be on the line and I would not be able to help them.</p> <p>14 Q So let's just try to make it a little more  15 concrete. Your start time is 10 o'clock?</p> <p>16 A Yes.</p> <p>17 Q You log into the phone before 10 o'clock.  18 You start logging into your tools before 10 o'clock,  19 but at 10 o'clock your tools are still booting up.  20 There have been times you still hit available because  21 you know you can handle the call?</p> <p>22 A I haven't done that in a long time if I --  23 I can't remember actually doing it, but knowing me, if  24 something -- you know, it was crunch time or  25 something, I could have done it, but I can't</p>	<p>1 when you started looking at it more closely?</p> <p>2 A I -- to be honest with you, I just go by --  3 you know, I just don't like being late, and plus my  4 rule of thumb was, again, you know, at least give  5 myself 15 minutes to get everything up so I'll be  6 available.</p> <p>7 Q If you -- let's say you are using the  8 15-minute rule of thumb --</p> <p>9 A Uh-huh.</p> <p>10 Q -- and you have a -- it's kind of an  11 average day, and so you start the 15 minutes. You  12 start with your 15-minute rule of thumb, and you're  13 booted up and everything within seven to eight  14 minutes?</p> <p>15 A Yes, sir.</p> <p>16 Q So there's still seven minutes. We'll use  17 the eight minutes, but there's still seven minutes to  18 your start time?</p> <p>19 A Yes, sir.</p> <p>20 Q So you're ready to go, and there's a  21 seven-minute window --</p> <p>22 A Yes, sir.</p> <p>23 Q -- here before you hit available. What do  24 you do during that seven minutes? Or what did you do?</p> <p>25 A Normally what I do, I'll take a look at my</p>

Witness: Charles Seward

29 (Pages 110 to 113)

Page 110	Page 112
1 e-mails, see if any type of communicate -- because 2 sometimes a customer will e-mail confirmation of 3 their, what we call entitlement for support. 4 Q Right. 5 A There's like, for -- again, this is 6 elective on my part, you know, but you want to prepare 7 yourself for your day, so you're going through what 8 work might be there. Might look in the queue, see if 9 you got anything on hold, if you will. I'm not the 10 great queue master, but the calls that I've been 11 working, I'll look at those that I have currently on 12 hold status, if you will. Stuff like that. 13 Q Do you -- did you ever do personal e-mails 14 during that time? 15 A Probably. Maybe. I don't know. Probably 16 so. 17 Q Did you -- did you ever check the Internet 18 for personal reasons -- 19 A Yes. 20 Q -- during that time? 21 A Yes. 22 Q Before your shift started? 23 A Yes. 24 Q Did you ever tell your supervisor that you 25 were doing that prior to your shift? Checking the	1 A No. They never say anything to us about 2 that because -- no, they don't say anything. I 3 mean -- no, they have not really said anything like 4 that. 5 Q Where does Miss Williams sit in relation to 6 you? 7 A I would say possibly from seat to seat, 8 maybe -- trying -- I'm good at -- maybe 25 feet away, 9 probably approximately two or three cubicle walls in 10 between. 11 Q It's a cubicle system? 12 A Yes. 13 Q Have you been in the same cubicle for the 14 entire time you have been on the SCET Team? 15 A No, sir. 16 Q How many different cubicles have you been 17 in? 18 A Just two. 19 Q Was your answer when I asked you about 20 where Miss Williams sat, with respect to your current 21 cubicle? 22 A Yes. 23 Q When did you move to your current cubicle? 24 A Gosh, I -- I don't know. I'm not sure when 25 they actually moved us.
Page 111	Page 113
1 Internet or checking personal e-mails? 2 A No. When you say personal e-mail, you mean 3 on IBM -- 4 Q Yes. 5 A I -- 6 Q On the IBM? 7 A No, I don't go on AOL. 8 Q Right. No. On the IBM system? 9 A No. I just check my e-mails. I don't go 10 in there saying, this is personal, this is IBM, this 11 is personal, or somebody -- my wife might send me 12 something, or I don't -- I don't differentiate on the 13 e-mail when I go through them. 14 Q Do you know if Miss Williams, for example, 15 knew whether you were doing personal things before 16 your shift started? 17 A No. No. She never mentioned that to us. 18 She -- she -- she had ways of making statements like, 19 you know, I know what Web sites you're on or where 20 you're going and stuff like that, and she just made 21 comments like that ongoing. 22 Q Is there -- is there a policy that 23 prohibits doing -- checking the Internet before your 24 -- for personal reasons before your shift starts, or 25 is that acceptable?	1 Q Do you recall where your previous cubicle 2 was? 3 A Yes. 4 Q Where was that in relation to 5 Miss Williams? 6 A Oh, gosh. That might be 50 feet or 7 60 feet, just averaging it. Probably 50 feet, yes. 8 At least 50 feet. Sixty feet, maybe. I'm not sure. 9 MR. RAY: Apparently they're building a 10 building next door. 11 MR. ZOURAS: I'm glad to see the progress in 12 the community. 13 BY MR. RAY: 14 Q Do you -- we've talked about checking the 15 Internet while you're waiting for your shift to start 16 or personal e-mail -- 17 A Yes. 18 Q -- before the shift starts. 19 A Yes. 20 Q What about during your shift? Have you 21 ever checked the Internet for personal reasons during 22 your shift? 23 A Yes. I have -- I've been on the Web sites. 24 Q And do you go into an AUX code when you are 25 doing that?

Witness: Charles Seward

30 (Pages 114 to 117)

Page 114	Page 116
<p>1 A No, sir. Not unless if I was on my break 2 or something like that, maybe. 3 Q You might do it on your break? 4 A Well, I'm just saying, when you say am I in 5 an AUX code, I'm not sure if I understand. 6 Q Well, do you -- well, let me ask it a 7 different way. That's fair enough. 8 A Yes, sir. 9 Q You get a lunch -- 10 A Yes. 11 Q -- right? And then you get -- for an 12 eight-hour shift, anyway, you get two 15-minute 13 breaks -- 14 A Yes. 15 Q -- is that correct? 16 A That's correct. 17 Q Do you ever during your break time, for 18 example, check the Internet? 19 A Yes. 20 Q For personal reasons? 21 A Yes. 22 Q During lunch do you ever check the Internet 23 for personal reasons? 24 A Yes. Well, sometimes, yes. 25 Q And what about personal e-mail? Do you use</p>	<p>1 BY MR. RAY: 2 Q And this is an e-mail dated September 26, 3 2006, and it appears to be from your IBM account to 4 your personal AOL account; is that correct? 5 A That is correct. 6 Q Is this the type of e-mail that you would 7 still have a copy of in your AOL account? 8 A I don't think so. Basically what this was, 9 I wanted his e-mail address because I wanted to send 10 him an e-mail from my home -- my home account. 11 Q Did you manually delete this e-mail from 12 your AOL account, or would it have been swept? 13 A It probably swept, sir, because I don't 14 even -- that's a long time ago, right. Yes. 15 Q A couple years ago? 16 A Yes. 17 Q Do you -- I think I asked you this before. 18 Do you know how often AOL automatically -- 19 A I'm not sure. 20 Q -- deletes? You don't know? 21 A I'm not sure, sir. 22 Q And you wanted to send Mr. MacDonald an 23 e-mail from your personal e-mail? 24 A That's correct. 25 Q Mr. MacDonald is who?</p>
Page 115	Page 117
<p>1 that during break sometimes? And by personal I mean 2 the IBM e-mail but for personal reasons? 3 A Possibly, yes. 4 Q Lunch? The same thing? 5 A Yes. Generally speaking, I -- I could do 6 that, yes. 7 Q Do you ever check the Internet for personal 8 reasons when you are not on a break, one of your 9 scheduled breaks, or lunch? 10 A Yes. 11 Q And how would you have time to do it? I'm 12 trying to understand what state you -- 13 A If I'm waiting on a call. Say I'm in 14 available and we're just waiting for a call to come 15 in. I would do it at that time. 16 MR. RAY: How much time do you have on the 17 tape? 18 THE VIDEOGRAPHER: Ten minutes. Change it 19 early if you need it to. 20 BY MR. RAY: 21 Q We'll get started and then go through some 22 exhibits hopefully fairly quickly here. I'll hand you 23 what's been marked as Exhibit 5. 24 (Thereupon, marked for identification, 25 Defendant's Exhibit D5.)</p>	<p>1 A I'm sorry? 2 Q Mr. MacDonald is who? What position? 3 A He's in HR, head of HR, human resources. 4 Q Do you recall what e-mail you wanted to 5 send from your personal e-mail? 6 A I think I had some issues about the 7 training that we had. 8 Q I think I may have some on that. We'll 9 come back to it. 10 (Thereupon, marked for identification, 11 Defendant's Exhibit D6.) 12 BY MR. RAY: 13 Q Let me hand you what's been marked as 14 Exhibit 6, and first I'll ask you if you recognize 15 that e-mail? 16 A Yes. 17 Q And that is an e-mail from you -- from your 18 IBM account; right -- 19 A Yes. 20 Q -- to Dan Motta? 21 A Yes. 22 Q Who is Dan Motta? 23 A An old high school friend from years ago. 24 Q This one is dated September 29, 2006; 25 correct?</p>

Witness: Charles Seward

31 (Pages 118 to 121)

Page 118	Page 120
<p>1     A   Yes.</p> <p>2     Q   So that's before you went into SCET? I</p> <p>3    think you went into SCET, I think you said earlier,</p> <p>4    January of '07.</p> <p>5     A   I thought I had sent this to him prior to</p> <p>6    that. I would think that's prior, I guess. Yes.</p> <p>7     Q   And --</p> <p>8     A   Yes.</p> <p>9     Q   This was, I believe, based on the</p> <p>10   chronology we talked about, near the end of the time</p> <p>11   you were in IBM Teach?</p> <p>12    A   Yes. We was dormant.</p> <p>13    Q   What do you mean by dormant?</p> <p>14    A   We wasn't doing much.</p> <p>15    Q   Was it in the process of being transitioned</p> <p>16   to Manila?</p> <p>17    A   October 1 we were told, and then -- that 90</p> <p>18   days we were going to be -- we were going to be --</p> <p>19   opportunity -- given the opportunity to find another</p> <p>20   job.</p> <p>21    Q   That was on October the 1st?</p> <p>22    A   It was the first week in October, I</p> <p>23   believe.</p> <p>24    Q   And Mr. Bethea was your supervisor then?</p> <p>25    A   Yes. Yes.</p>	<p>1     Q   During this time period, in the latter part</p> <p>2    of 2006 when IBM Teach got so slow --</p> <p>3     A   Yes.</p> <p>4     Q   -- were you still under the impression or</p> <p>5    was it your understanding that you still needed to be</p> <p>6    phone ready at the start of your scheduled shift?</p> <p>7     A   Yes, sir. Yes, sir.</p> <p>8     Q   Were there any discussions with you or</p> <p>9    anyone -- well, let me strike that. Were there any</p> <p>10   discussions from management that you were privy to</p> <p>11   about softening the schedule because there was</p> <p>12   nothing to do?</p> <p>13    A   That, I don't recall. I know we still were</p> <p>14   supposed to be up and ready to go.</p> <p>15    Q   This -- this e-mail that's Exhibit 6, is</p> <p>16   the time on it -- the time stamp is 8:50 a.m.?</p> <p>17    A   Yes.</p> <p>18    Q   What was your schedule during that time</p> <p>19   period? Do you recall?</p> <p>20    A   No. But most likely it was probably --</p> <p>21   trying to remember, because they -- they indicated to</p> <p>22   us -- I'm not sure. It might be -- I'm not sure.</p> <p>23    Q   Did you ever work a ten-to-seven schedule</p> <p>24   in IBM Teach?</p> <p>25    A   No. No. This is either -- it was either</p>
Page 119	Page 121
<p>1     Q   And when you were told after October 1 --</p> <p>2    or on October 1 --</p> <p>3     A   Approximately.</p> <p>4     Q   Roughly October 1, did -- it sounds like</p> <p>5    your workload was diminishing already?</p> <p>6     A   Oh, yes. Way before -- before that. It</p> <p>7    was null and void almost.</p> <p>8     Q   When did it become so diminished?</p> <p>9     A   It had -- I would say a good while prior to</p> <p>10   that. I can't really give you a time -- a start of</p> <p>11   it, but from -- during this period of time, gosh, we</p> <p>12   were -- we was almost doing nothing. We was getting a</p> <p>13   call maybe -- sometimes -- we even took records of it</p> <p>14   sometime. We were getting a call maybe every two and</p> <p>15   a half, two hours and 45 minutes we get a call.</p> <p>16    Q   And this was in -- you said in this time.</p> <p>17   This is dated September 29, 2006.</p> <p>18    A   Yes. During that period of time all the</p> <p>19   way through the rest of the year we were pretty much</p> <p>20   not taking that many calls. In fact, they even had</p> <p>21   the -- our replacements flew in, and they were -- sat</p> <p>22   with us for a while.</p> <p>23    Q   They were what?</p> <p>24    A   They flew in from Philippines and sat with</p> <p>25   us for a while.</p>	<p>1     nine to five or eight to -- eight to four. It might</p> <p>2    be -- 4:30 was my quit time, so it might have been</p> <p>3    eight to 4:30, something like that. I'm not sure. It</p> <p>4    was not ten to seven, though. It was not ten to</p> <p>5    seven.</p> <p>6     Q   In IBM Teach?</p> <p>7     A   Right. It was either like nine to five,</p> <p>8    eight to 4:30, something like that.</p> <p>9     MR. RAY: Our tape is almost out. Why don't</p> <p>10   we take a break. Maybe the jackhammering will</p> <p>11   end.</p> <p>12    THE VIDEOGRAPHER: Off video.</p> <p>13    (Thereupon, a recess was taken.)</p> <p>14    THE VIDEOGRAPHER: On video.</p> <p>15   BY MR. RAY:</p> <p>16    Q   We were talking, Mr. Seward, about Exhibit</p> <p>17   6, which was an e-mail that you sent to Dan Motta</p> <p>18   in -- September 29, 2006; correct?</p> <p>19    A   Correct.</p> <p>20    Q   And this was when you were reporting to</p> <p>21   Mr. Bethea?</p> <p>22    A   Correct.</p> <p>23    Q   Did Mr. Bethea know that you -- well,</p> <p>24   strike that. Would Mr. Bethea -- or do you know</p> <p>25   whether Mr. Bethea knew that you were sending personal</p>

Witness: Charles Seward

32 (Pages 122 to 125)

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1 e-mails during your shift? 2 A I would say, yes. 3 Q And how would you -- why do you say yes? 4 A Because to be honest, our workload was very 5 low, and a lot of folks were just biding their time 6 until -- until we was going to leave or whatever was 7 going -- going to happen to our department, so we, you 8 know -- we just kept ourselves busy, whether it was an 9 e-mail or a Web site or waiting for a call. 10 Q Did you ever have discussions with 11 Mr. Bethea about the specific topic of doing personal 12 activities during your shift? For example, e-mails or 13 checking mail? 14 A No, sir. 15 Q What about prior to your shift? And I'm 16 talking about under Mr. Bethea. Do you know or do you 17 have an understanding of whether Mr. Bethea would have 18 known whether you were doing any personal e-mails or 19 Internet searches before your scheduled shift started? 20 A I would say from my recollection, no. He 21 was a late arrival. 22 Q What -- what shift did -- I think you were 23 talking about the possibility of -- 24 A Yes. 25 Q -- of different shifts that you had under	1 A Yes. 2 Q -- going to your personal account dated 3 May 4, 2007? 4 A Right. 5 Q Do you recall sending this e-mail? 6 A Yes. 7 Q And this one, the time on it is 7:19 a.m. 8 Do you see that? 9 A Yes. 10 Q Do you recall what your shift was in May of 11 2007? 12 A May? It could have been -- May of 2007? 13 Eight to four. 14 Q Was this when you were in the SCET group? 15 A No, sir. Wait a minute. Let me take this 16 back. This is -- we should have been in the -- in the 17 SCET group, 7 a.m. I'm trying to think of -- if we 18 were in training class at that time. I think we were 19 taking a training class at that time. 20 Q Do you recall -- I'm sorry to interrupt. 21 Do you recall what time the training class was? 22 A I believe the training class started either 23 at eight or 8:30. 24 Q And it looks like you were sending a Web 25 site location to your --
Page 123	Page 125
1 Mr. Bethea. What shift did he work? Do you recall? 2 A He -- he normally arrived after 9 o'clock, 3 sometimes later, quite later. Ten. Nine, ten. 4 Nothing -- nothing really, really early. He had 5 breakfast nine, 9:30, or even later. He was not a -- 6 if I can expound, Mr. Bethea was also a manager of the 7 software entitlement group, that first group that -- 8 we had the SCET, and then there was another group, 9 SW -- the other -- the front-end agents. He was also 10 the manager of that group. 11 So he was managing our group and that 12 front-end group, but we were -- to be honest, we were 13 seasoned vets. We were -- we really didn't need a 14 baby-sitter, so he would monitor the other group more. 15 He actually sat at that area versus our area, and we 16 was on the other side. He was in one building. We 17 was in the other building. 18 Q Oh, you were not even in the same building? 19 A No, sir. 20 (Thereupon, marked for identification, 21 Defendant's Exhibit D7.) 22 BY MR. RAY: 23 Q Let me hand you what's been marked as 24 Exhibit 7, and this is an e-mail that appears from 25 your IBM account --	1 A Right. 2 Q -- personal e-mail? 3 A Yes. 4 Q And were you actually looking at the 5 Internet to get the Web site? 6 A Yes. That's a -- a Web site -- my daughter 7 is a -- swims competitively, and that specific store 8 is about two, three miles from me, and they make 9 custom bathing suits. 10 Q Do you know if that was -- do you know if 11 the timing on checking that Web site and sending that 12 e-mail that is Exhibit 7 was before the training 13 started, or -- 14 A Right. It -- it was before my shift 15 started. I know I was in early. I'm thinking that I 16 was in a training class at that time. I'm trying to 17 remember the -- actually if we were in training or 7A 18 -- 7:19 a.m., that's really early for me. I just 19 don't know why I was in that early. Most likely I'm 20 thinking that I was in the training class that week or 21 I was just in there early. 22 (Thereupon, marked for identification, 23 Defendant's Exhibit D8.) 24 BY MR. RAY: 25 Q I'm going to hand you what's been marked as

Witness: Charles Seward

33 (Pages 126 to 129)

Page 126	Page 128
1 Exhibit 8 and ask you to take a look at this exhibit. 2 It's dated August 21, 2007. At that time were you on 3 your ten-to-seven shift? 4 A Yes. 5 Q And this is an e-mail actually, 5:57 p.m., 6 to an R-J-L-E-O-P -- 7 A Yes. 8 Q -- at Verizon dot-net. Who is that? 9 A One of my classmates. I was going to -- 10 this is a e-mail out to my high school reunion. 11 Q Do you know if you were on break when you 12 sent this e-mail? 13 A I don't think so. I think I was waiting on 14 a call. 15 Q I hand you what's been marked as Exhibit 9. 16 Oh. 17 (Thereupon, marked for identification, 18 Defendant's Exhibit D9.) 19 BY MR. RAY: 20 Q This e-mail that is Exhibit 9 is dated 21 October 15, 2007, and it appears to be from your IBM 22 e-mail to your personal e-mail; is that correct? 23 A Yes. I'm trying to think of what that 24 e-mail is for. It's a guide for something. 25 Q Yes. It appears to be a Web site address.	1 log in until a minute or two or right at your start 2 time; correct? 3 A Yes, sir. 4 Q You yourself had this 15-minute rule of 5 thumb where you would start logging into your tools 6 approximately 15 minutes before your start time? 7 A Correct. 8 Q If your tools were logged up within seven 9 to eight minutes, so you'd still had seven or eight 10 minutes until your start time, and Mr. Bethea had 11 asked you not to log into the phone, the Avaya, until 12 your start time -- 13 A That's correct. 14 Q -- what were you doing in between this 15 seven -- for this seven or eight minutes? Because you 16 could not take calls, obviously. 17 A No. No. I -- basically, I could be just 18 looking at my e-mails. To be honest, sometime -- 19 especially when I was with Teach, not the waning 20 months, but prior to that; when I used to have -- I 21 used to have really early hours. I used to do some of 22 my admin work. Besides bringing up my system, if I 23 had some admin work sitting out there, I probably did 24 some of that also, but that's about it that I can see. 25 Q What period of time were you on this early
Page 127	Page 129
1 Is that correct? 2 A I'm not sure if it's the -- I'm not sure 3 what that guide is for. 4 Q At this time you were -- as of October 15, 5 2007, you were on the ten-to-seven shift; correct? 6 A Correct. 7 Q This e-mail is dated 9:58 a.m. 8 A Correct. 9 Q Now, I do not know, and I'll represent, I 10 don't know if in printing these e-mails, it may have 11 shifted the time because we're central time, so I'm 12 not -- I don't know if this was 9:58 a.m. central or 13 9:58 a.m. eastern. Do you happen to recall whether 14 this was done preshift or during your shift? 15 A No, sir. I'm just trying to remember what 16 that guide is for. I know it's something, but -- 17 maybe it's -- I'll try to speak up. Maybe it's a -- I 18 know it's -- I'm trying to remember. I'm pretty good 19 at this. Guide? Oh, this might be the call center -- 20 no, it can't be the call center guide. I'm not sure 21 what it is. 22 Q Let me ask a general question about these 23 e-mails and checking the Internet. You talked earlier 24 about how you were told not to log in -- let's just 25 talk about Mr. Bethea. How Mr. Bethea told you not to	1 shift where you would do that? 2 A Oh, gosh, we're talking about 2004 through 3 2006, I would say -- I'm only ballpark. Only 4 ballpark. 5 Q And was that when you were under 6 Mr. Bethea? 7 A Yes, sir. 8 Q Did Mr. Bethea know that you were doing 9 admin work -- well, let me -- let me clarify. Were 10 you doing admin work before your scheduled start time? 11 A I would say, because the work got done -- 12 it was to our benefit to have it done, you know, so, 13 you know -- basically, if I can expound, we had a -- a 14 scheduled admin time during the day. Now, I might 15 have X amount of work in that admin time, but if I 16 could do some of it before my -- in the morning, it 17 would help me later, so I would do both. 18 Q Well -- and let me just ask the question 19 again to make sure I understand. 20 A Yes. 21 Q Was there time when you were under 22 Mr. Bethea where you would do admin work before your 23 scheduled shift? 24 A Sure. Yes, sir. 25 Q And did you record that time in totals?